MINUTES OF REGULAR MEETING OF JULY 18, 2018

The regular meeting of the Frelinghuysen Township Committee was held in the Municipal Building, 210 Main Street, Johnsonburg, New Jersey on Wednesday, July 18, 2018 and was called to order at 7:30 p.m. by Mayor, Frank Desiderio.

SUNSHINE LAW STATEMENT:

Under the provisions of the Open Public Meetings Act, adequate notice of this meeting was provided by posting notice on the Township bulletin board and by e mailing notice to the New Jersey Herald and The Express-Times.

ROLL CALL:

Those present were: Mayor Frank Desiderio, Deputy Mayor Chris Stracco, Committeeman Charles Marra, Committeeman David Boynton, Committeeman Christopher Kuhn, Attorney Rich Beilin, and Municipal Clerk Donna Zilberfarb.

MINUTES:

- 1. June 13, 2018 executive session meeting minutes were approved on a motion by Mr. Kuhn, seconded by Mr. Boynton. All were in favor.
- 2. June 20, 2018 regular session meeting minutes were approved on a motion by Mr. Stracco, seconded by Mr. Boynton. All were in favor. Mr. Kuhn abstained.
- 3. June 27, 2018 special session meeting minutes were approved on a motion by Mr. Boynton, seconded by Mr. Marra. All were in favor. Mr. Kuhn abstained.

ORDINANCES:

2018-12: ORDINANCE OF THE TOWNSHIP OF FRELINGHUYSEN, COUNTY OF WARREN, STATE OF NEW JERSEY TO REGULATE THE MAINTENANCE OF BAMBOO WHEREAS, the Mayor and Committee of the Township of Frelinghuysen have received complaints regarding the unwanted spread of bamboo, which has become a nuisance to the residents of the Township in areas where it encroaches on the public right-of-way or creates a safety or health issue; and WHEREAS, the Township currently does not have an ordinance to control the maintenance of bamboo, and the Mayor and Township Committee find it in the public interest to regulate the maintenance of bamboo so that it does not encroach into the public right-of-way, or negatively impact the public health, safety or welfare; and WHEREAS, the Mayor and Committee of the Township of Frelinghuysen believe that the adoption of such an ordinance is appropriate and would be a reasonable exercise of the municipality's police powers. NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Frelinghuysen in the County of Warren, State of New Jersey, as follows:

<u>Section I</u> Chapter 9 of the Frelinghuysen Township Code is amended by adding thereto a new Section 9-2, to read as follows:

9-2 BAMBOO

A. No persons, residents, citizens, property owners and/or tenants of the Township shall plant, cultivate, or cause to grow, any bamboo on any lot and/or parcel of ground anywhere within the geographic boundaries of the Township of Frelinghuysen in such a manner as to: (a) cause any portion of the plant or roots to encroach on the public right-of-way.

B. <u>Complaint and notice, order for removal and compliance</u>. Whenever a complaint is received by the Township regarding the encroachment of any bamboo plant or root into the public right-of-way or the existence of a condition negatively impacting the public health, safety or welfare, or whenever the Township, on its own observations and inspections, same, the Township shall cause notice to be served and the following actions to occur:

(1) The notice shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage, and also by first-class mail. Notice by certified mail shall be deemed complete on the date of personal delivery, or the date the certified mail is marked refused or unclaimed or otherwise undeliverable by the United States Post Office. First-class mail shall be deemed delivered within five calendar days of its being mailed by the Township.

(2) The notice shall specify the nature of the violation(s).

(3) The notice shall state that the violation(s) must be corrected within 30 calendar days from the date of the received or returned mailing.

(4) The notice shall state specifically what must be done by the responsible party to correct the violation(s).

C. <u>Investigations; reports</u>. The Director of Public Works, Road Supervisor, Construction Official or the Health Officer of the Township shall be considered the proper officers to investigate all lands within the limits of the Township to determine violations of this section, and to issue notices pertaining to same.

D. <u>Violations and penalties; remediation and collection of remediation</u> costs.

(1) Any person who shall violate any of the provisions of this section shall be liable, upon conviction, to the penalty stated in Chapter I, Section 1-5.

In addition to and not in lieu of any penalties that may be assessed, (2) If the violation is not remedied within the time set forth in the notice sent pursuant to Section 9-2B hereof, the Township is hereby authorized to remove or have removed any bamboo encroaching on the public right-ofway or negatively impacting the public health, safety or welfare, and to take all reasonable steps to eradicate the regrowth of the bamboo into the public right-of-way or to the extent that it negatively impacts the public health, safety or welfare, and to restore the land to the condition in which it existed prior to such removal and eradication, all at the cost and expense of the property owner from whose property the bamboo emanated. Upon such removal, the following procedure shall apply regarding the payment and collection of the amounts expended by the Township of Frelinghuysen The officer or employee of the Township in charge of the removal of (3) bamboo shall certify the cost thereof to the Mayor and Committee. The Mayor and Committee shall examine such certificate and, if found to be correct, shall cause such cost to be charged against such lands after affording the owner of the property a reasonable opportunity to appear before the Mayor and Committee or its designated agent.

(4) The amounts charged shall immediately become due and payable to the Township. If the owner of the property fails to pay such amounts, the same shall become a lien on the property of such owner and shall bear interest in the same manner as is charged on unpaid taxes. Such unpaid amounts shall be deemed, for the purpose of collection thereof, a tax upon such real estate to be added to and become a part of the taxes next to be levied and assessed against that real estate. Such tax shall be enforced and collected with interest by the same officer and in the same manner as all other municipal taxes.

E. In the event that the Township of Frelinghuysen shall cause bamboo to be removed, the owner of the property from which the bamboo emanated shall indemnify and hold harmless the Township of Frelinghuysen and its officers and employees from and against all liability, including loss, damage, costs, attorneys' fees, causes of action, claims and/or judgments arising from said bamboo removal and restoration of the property. For the sole purpose of this section and for no other purpose, the owner or developer shall be deemed to have appointed the Township of Frelinghuysen as the owner's or developer's agent should the Township cause bamboo to be removed from such owner's or developer's property. <u>Section II</u> 1. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

2. If any word, phrase, clause, section or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

3. This ordinance shall take effect immediately upon final passage and publication as required by law.

NOTICE Notice is hereby given that the Ordinance will be reintroduced for first reading at the regular meeting of the Frelinghuysen Township Committee held on July 18, 2018 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on August 15, 2018 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance. Motion was made by Mr. Stracco to open to first reading/introduction, seconded by Mr. Boynton. Roll call vote: Mr. Boynton-yes; Mr. Desiderio-yes; Mr. Kuhn-yes; Mr. Marra-yes; Mr. Stracco-Yes. Second reading for adoption will be held on August 15, 2018 at 7:30 pm.

2018-15 ORDINANCE AMENDING SECTION 1003 OF THE FRELINGHUYSEN TOWNSHIP LAND DEVELOPMENT ORDINANCE TO REQUIRE INDICATION OF WETLANDS ON ZONING PERMIT APPLICATION WHEREAS, in order to protect natural resources and assure proper land use within the Township, the Mayor and Township Committee deem it in the public interest to have applicants for zoning permits indicate on such applications whether there are any wetlands on the properties that are the subject of those applications. NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Frelinghuysen in the County of Warren and State of New Jersey as follows:

Section I

Section 1003(B)(2)(a) of the Frelinghuysen Township Land Development Ordinance is hereby amended to read as follows (additions are underlined):

1003 ENFORCEMENT

- B. Construction and Zoning Permits
 - 2. No land shall be used, no use shall be commenced and no structure shall be erected, constructed, reconstructed, altered, converted and no land, use or structure shall be changed from an existing use to a new use until a zoning permit is issued by the Zoning Officer pursuant to the procedures set forth below, stating that such use, structure or building conforms and complies with the provisions of this chapter by a board of competent jurisdiction.
 - a. Any person requesting a zoning permit shall complete a written application on a form prescribed by the municipality, which shall, in addition to the other information requested therein, require the applicant to indicate whether there are any wetlands on the property that is the subject of the permit. For purposes of N.J.S.A. 40:55D-18, a person shall be deemed to have requested a zoning permit only when each of the following has occurred: (i) the applicant for a zoning permit has completed a written application for a zoning permit on a form prescribed by the municipality, and the said application has been deemed complete by the Zoning Officer or his or her designee; (ii) the fee for the zoning permit has been paid to the municipality in the form of a certified check, cash or money order; and (iii) the applicant has supplied the Zoning Officer with all supporting data reasonably requested by the Zoning Officer.

Section II

1. Any section or subsection of the Frelinghuysen Township Code not specifically addressed in this Ordinance is to remain unchanged and continue with full force and effect.

2. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

3. If any word, phrase, clause, section or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

4. This ordinance shall take effect immediately upon final passage and publication as required by law.

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Frelinghuysen Township Committee held on June 20, 2018 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on July 18, 2018 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance. Motion was made by Mr. Stracco to open for first reading/introduction, seconded by Mr. Boynton. All were in favor. Second reading for adoption, seconded by Mr. Boynton to open for second reading for adoption, seconded by Mr. Marra. All were in favor – aye. No public comment. Motion was made by Mr. Stracco to close to the public, seconded by Mr. Boynton. All were in favor – aye. No public comment. Motion was made by Mr. Stracco to close to the public, seconded by Mr. Boynton. All were in favor-aye. Motion was made by Mr. Stracco to close to the public, seconded by Mr. Boynton. All were in favor-aye. Motion was made by Mr. Boynton. Roll call vote: Mr. Boynton-yes; Mr. Desiderio-yes; Mr. Kuhn-yes; Mr. Marra-yes; Mr. Stracco-yes.

RESOLUTIONS:

#2018-55 WHEREAS, the Township of Frelinghuysen plans to improve the fourth section of Kerrs Corner Road between Silver Lake Road and Lanning Road; and WHEREAS, the

Township has obtained grants from the municipal aid portion of the Transportation Trust Fund to help fund the project: and WHEREAS, the Township has appropriated the funds and plans on constructing the improvements in August 2018; and WHEREAS, the Township plans on utilizing Tilcon New York, Inc. ("Tilcon"), Road Safety Systems, LLC ("Road Safety"), and Denville Line Painting Inc. ("Denville") through its membership in the Morris County Cooperative Pricing Council ("MCCPC") to perform the required milling, paving, guide rail and striping work on Kerrs Corner Road; and WHEREAS, Tilcon, Road Safety and Denville are gualified contractors and have been found to be in compliance with the contract documents and technical specifications; and NOW THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COMMITTEE of the Township of Frelinghuysen, that the Township shall utilize Tilcon, Road Safety and Denville through its membership in the MCCPC, to perform the following work:

- 1. HMA Milling, 2" Depth at \$2.65/SY for a total of \$26,500.00 (Tilcon):
- 2. HMA Milling, 3" Depth at \$2.65/SY for a total of \$2,650.00 (Tilcon);
- 3. Hot Mix Asphalt 9.5M64 Surface Course at \$63.13/Ton for a total of \$75,756.00 (Tilcon);
- 4. Hot Mix Asphalt 19M64 Base Course at \$59.09/Ton for a total of \$10,636.20 (Tilcon);
- 5. Asphalt Price Adjustment at \$11,000.00 (Tilcon);
- 6. Beam Guide Rail at \$30.00/LF for a total of \$13,500.00 (Road Safety);
- 7. Tangent Guide Rail Terminal at \$3,000.00/Unit for a total of \$66,000.00 (Road Safety);
- 8. Guiderail Removal at \$5.00/LF for a total of \$7,750.00 (Road Safety);

9. Traffic Stripes, Long Life, Epoxy Resin at \$0.30/LF for a total of \$2,250.00 (Denville). BE IT FURTHER RESOLVED, that copies of this resolution shall be forwarded to the N.J.D.O.T.'s Bureau of Local Government Services.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton			x			
Mr. Desiderio			x			
Mr. Kuhn		x	x			
Mr. Marra	x		x			
Mr. Stracco			x			

#2018-56 RESOLUTION APPROVING PAYMENT OF BILLS FOR THE MONTH OF JULY 2018 WHEREAS, the Finance Committee of the Township of Frelinghuysen have reviewed the bills submitted by the Municipal Clerk to the Frelinghuysen Township Committee for the month of JULY 2018; and WHEREAS, the Finance Committee find the bills to be in order and recommend to the Township Committee that they be paid by the Chief Finance Officer. NOW, THEREFORE BE IT RESOLVED, by the Frelinghuysen Township Committee that all bills submitted for the above named month are reasonable and proper and are to be paid from their appropriate account.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton		x	x			
Mr. Desiderio			x			
Mr. Kuhn	x		x			
Mr. Marra			x			
Mr. Stracco			x			

2018 - 57 TAX COLLECTOR WHEREAS, a resolution is required by the Tax Collector to refund a double payment of 1st quarter 2018 taxes. The property owner's previous bank paid their 2018 1st quarter taxes and the new mortgage company also paid the 1st quarter taxes. Request was made by PNC Bank to refund their payment.

Block Lot 1501

3.01

Pay To

PNC Bank

Amount \$ 1,449.90

NOW, THEREFORE BE IT RESOLVED by the Township Committee that the Treasurer is hereby authorized to refund the above property taxes. I hereby certify the foregoing to be a true and accurate copy of a resolution adopted by the Township Committee at its' meeting held on July 18th, 2018.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton		x	x			
Mr. Desiderio			x			
Mr. Kuhn	x		x			
Mr. Marra			x			
Mr. Stracco				x		

#2018 – 58 TAX COLLECTOR WHEREAS, a resolution is required by the Tax Collector to cancel 2017 taxes deemed uncollectible, and WHEREAS, the following properties have 2017 taxes that must be canceled of record;

BLOCK		LOT	OWNER	AMOUNT
*301	8		Joseph & Carol Devenney	89.36
**902	2		Carson, Daniel & Whitney	94.19

NOW, THEREFORE BE IT RESOLVED by the Township Committee that the above taxes be canceled of record as they are uncollectible. I hereby certify the foregoing to be a true and accurate copy of a resolution adopted by the Township Committee at its' meeting held July 18th, 2018. *This lot was combined with lot 9 in 2016 but not removed from 2017 tax duplicate **This lot is in the tax duplicate twice also assessed as lot 2 Q-0135

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton		x	x			
Mr. Desiderio			x			
Mr. Kuhn	x		x			
Mr. Marra			x			
Mr. Stracco			x			

#2018-59 SETTING EXECUTIVE SESSION WHEREAS, it is necessary to discuss items dealing with personnel issues. WHEREAS, under the Open Public Meetings Act (number 8 of the permitted exceptions to the requirements that a public body hold its meetings in public) it is permissible that such matters be discussed in executive or private session. NOW, THEREFORE BE IT RESOLVED, on July 18, 2018 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session to discuss the above mentioned and results or portions of that discussion will be made known in reasonable length of time.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton	x		x			
Mr. Desiderio			x			
Mr. Kuhn			x			
Mr. Marra		x	x			
Mr. Stracco			x			

AGREEMENTS:

Motion was made by Mr. Boynton to approve and have Mayor and Clerk sign the 2018-2019 Municipal Alliance County Contract, seconded by Mr. Marra. All were in favor.

OLD BUSINESS:

 Service Electric Cable – Mr. Stracco explained that he reached out to Robin Blessing and that the township needs to address liability issues and get back to service electric. Mr. Beilin will reach out to service electric once he finds out the liability issues. Mr. Howard Ryan, 11 Stone Bridge Road, asked if the town had a contract with Service electric. Mr. Desiderio explained that there is a regional group of the surrounding towns but never signed a contract. He said he would look into and will let the clerk know and he will discuss with the surrounding Mayors.

- Shared Services for Animal Control Mr. Desiderio will investigate into this more and this will be held and removed from the agenda.
- Sale of property on Route 94 After discussion it was determined that this will be sold by auction and will have Danette Dyer reach out to Max Span.
- Mr. Desiderio explained that after last months meeting, he reached out to the county regarding the speed sign and is waiting to hear back from them. He also stated that a speed limit sign was put up on Kerrs Corner Road. Mr. Marra also stated that there has been police presence as he knows of 2 people that have gotten pulled over.

NEW BUSINESS:

- The amended construction department interlocal service agreement between the Township of Frelinghuysen and the Township of Green was approved to have the Mayor and Clerk sign on a motion by Mr. Kuhn, seconded by Mr. Stracco. All were in favor.
- The bid for the deck ramp at town hall was discussed and we've received one bid back. Mr. Desiderio made a motion to hold until Wednesday of next week, if no one else bids then award to Kise Carpentry, seconded by Mr. Stracco. All were in favor. Mr. Kuhn abstained.
- Ms. Zilberfarb explained that with the death of Ronnie Schwartz, a new municipal alliance coordinator needs to be appointed. A few names were discussed and Mr. Boynton will reach out to them.
- Ms. Dyer is looking into file retention and cleaning out the old files in the file room. This
 has not been done in many years. She would like to hire Allison Zilberfarb at \$10.00
 per hour paid via the recycling tonnage grant to clean out and prepare for shredding all
 old files that the retention schedule is ok to destroy via artemis. She would help the
 CFO and the tax collector. Motion was made by Mr. Boynton to hire Allison Zilberfarb
 paid \$10.00 per hour through the recycling tonnage grant for 80 hours worth of work,
 seconded by Mr. Marra. All were in favor.
- The building department is looking for a technical assistant and in the interim Mr. O'Conner would like to appoint Donna Zilberfarb as the temporary technical assistant. After discussion, a motion was made by Mr. Boynton to appoint Ms. Zilberfarb as the temporary technical assistant effective July 13, 2018 until the part time person is hired, with an hourly rate of \$16.00 per hour, seconded by Mr. Kuhn. All were in favor.

OPEN MEETING TO THE PUBLIC:

Motion was made by Mr. Boynton, seconded by Mr. Marra limiting it to15 minutes to open meeting to the public. All were in favor. Spoke were:

Loren Grecco asked how long the deck work has been going on. Ms. Zilberfarb said since about March. Mr. Grecco asked then why wait if you have a bid? Mr. Desiderio stated because he didn't know until today.

Jackie Espinoza from JCP&L discussed the new program called reliability plus and that it is before the BPU. This should help to reduce the amount of outages and will have a .26 cent increase per household. Ms. Espinoza also explained that they are in the process of removing ash trees due to the increase of the emerald ash borer that is killing these trees. Mr. Marra asked why the power was out for so long. Ms. Espinoza explained it was due to the storm coming in and there were lots of large trees that came down. She explained that 5th in list is restoration, after road openings and their plan is built for safety not efficiency. Ms. Zilberfarb thanked Ms. Espinoza publicly for all her help during those storms.

Motion was made by Mr. Boynton, seconded by Mr. Marra to close to the public. All were in favor.

DEPARTMENT REPORTS:

Motion made by Mr. Stracco for consent agenda items 1-9 seconded by Mr. Boynton. All were in favor.

OEM - Mr. Desiderio let the committee and public know that there will be a cert training held in Blairstown sometime in August and he will get the information for everyone.

DPW – Ms. Zilberfarb explained the report was in each book and that the dpw is doing on going mowing and weed wacking.

Land Manager – Mr. Connor stated there was an erosion problem at Robin's Trail. Mr. Desiderio asked the State of they will put something down if there is funding. Mr. Connor also mentioned that the cow at the FFP is gone and that someone stole it. Mr. Desiderio asked him to report it to the State Police. Mr. Desiderio asked about the very large snapping turtle in the pond and what will happen to all the new fish. Mr. Connor will reach out to Fish and Game.

Legal Report – Mr. Beilin discussed the Ordinance on cell tower revisions and handed everyone a copy. This should be considered for first reading at the August 15 meeting then send to the Land Use Board for their comments. Legal was discussed through out the meeting as well.

Recreation Committee – Mr. Desiderio discussed that the deck and rec center were power washed and is looking to put up a volley ball net and make some horseshoe pits. He said there are quite a few requests to rent the building and will be looking at the rates for next year. He explained the clam bake on August 4th and asked everyone to come out and support the booster club.

Environmental Commission – No meeting

Farmland Preservation/Open Space Committee - No meeting

Historic Committee – Mr. Connor discussed that at the meeting the tarp for the barn was discussed to preserve it.

Mayor report – Mr. Desiderio explained the driveway at the rec center and where he is at with it. The millings fell through and he is looking for more at this time. He is looking into renting a machine to remove the invasive plant growth around the driveway. He spoke with Sandy Urgo and she said that was the way to handle it. Mr. Desiderio doesn't think that he needs Joe Golden to do the driveway but would like to have him look at the site distance. The Clerk will reach out to Joe and have him inspect the site distance.

Deputy Mayor report – Mr. Stracco asked if there was any new information on the break in on Lincoln Laurel Road. Mr. Desiderio explained that he received some phone calls regarding people stopping at a house and asking questions and they went to the State Police. Nothing else had been heard.

Committeeman Boynton – Nothing to report

Committeeman Kuhn – Nothing to report

Committeeman Marra – Mr. Marra inquired about the cows that were out running at large from the previous meeting and asked if we hunt for them. They are feral cows and Mr. Desiderio explained the reason for the large animals running at large ordinance and that it was for horses. Mr. Marra also asked where the committee was on background checks. Mr. Desiderio stated that we do not have an Ordinance in place and nothing in the insurance policy states we have to have them get back ground checks. Mr. Desiderio will look into further.

Clerk report – Ms. Zilberfarb confirmed with the committee that it was ok for the Tour de Blairstown bike tour to still utilize the parking lot for their event. It was ok'd and Ms. Zilberfarb will reach out to Kendrya Close.

EXECUTIVE SESSION:

Motion was made to enter into executive session by Mr. Boynton, seconded by Mr. Marra. All were in favor.

No business was conducted

Motion was made to exit executive session by Mr. Boynton, seconded by Mr. Marra. All were in favor.

RETURNED TO REGULAR MEETING:

Mr. Beilin explained the reason for the executive session was due to personnel and possible litigation issues.

Motion was made by Mr. Kuhn to do a reduction in force in the dpw and eliminate the full time laborer/truck driver position and give him notice as required by law, seconded by Mr. Boynton. All were in favor. Mr. Desiderio abstained.

Motion was made by Mr. Kuhn to hold a special meeting on June 24, 2018 at 7:30 p.m. to handle the reduction in force, seconded by Mr. Boynton. All were in favor. Ms. Zilberfarb will advertise for the special meeting and RICE notice all dpw employees.

ADJOURNMENT:

There being no further business, motion was made by Mr. Stracco, seconded by Mr. Boynton to adjourn the meeting at 9:39 p.m. All were in favor.

Respectfully Submitted,

Donna Zilberfarb, RMC